

STATEMENT OF ASIF SALEH

EXECUTIVE DIRECTOR AND FOUNDER, DRISHTIPAT

TO THE

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Dear Honourable Commissioners:

Thank you for giving me and our organization Drishtipat a chance to speak today on the topic of impending elections this month in Bangladesh and state of affairs on human rights in the country. On the eve of the 60<sup>th</sup> anniversary of the declaration of the UN human rights charter, it's also an important time to look at the how effective this charter has been on cases of emerging democracies like Bangladesh. But today we will focus on things have been in the past two years politically, focusing on key areas of concern on the rights front and ending with a few recommendations for the upcoming elected government.

The big headline in *The Daily Star* before the Bangladesh independence day this year announced the news that Foreign advisor Iftekhar Ahmed has "discussed" with the UN chief the possibility of the UN taking up the issue of a war criminal's trial. Talk shows in Dhaka were rife with speculation and statements followed hailing the government. However, there was no mention of any specifics and neither were there any follow ups by the government later on.

Slowly, the issue died a silent death.

This incident typifies the way the caretaker government operated mostly over the last two years.

Building up expectations through media hype and following up with half hearted actions, if any, once the media buzz was over.

Whether it was incompetence or lack of political will, the caretaker government coming in with much hype and expectations, miserably failed to deliver on most of their promises.

However, to be fair to them, in comparison to the previous political governments, on paper, however, some significant reform initiatives have been pushed by them.

But because of its own undermining of the very institutions that it was trying to reform and lack of political buying in from the parties, most of these changes face the danger of not surviving for long.

As some of the past violators of institutional integrity make a triumphant return to the political scene, more emboldened by this failure, Bangladesh is looking at a long road ahead towards reform.

However, Bangladeshis are looking forward to the upcoming polls because as one of the editors in Bangladesh has said recently, "A flawed process is better than no process, when it comes to democracy."

Barring further experimentation with such suspension, we hope to see the process slowly giving institutional root to democracy in Bangladesh.

Long term improvement of human rights conditions in Bangladesh, however, continues to remain on the backburner on the discussion list of the parties.

## Background

By now the background of the political changes in 2007 is quite well-known. Amid a political stalemate that went on for three months without any chance of immediate resolution, the military, supposedly with the backing of the international diplomats, forced a change in the power structure to bring in a government promising fundamental reforms.

Widely greeted by most in the civil society and the general public, the government in the beginning of its tenure enjoyed supreme popularity.

Riding on this popularity, they carried out sweeping arrests of a lot of the political leaders on charges of corruption.

Specific promises were made about reforming the various public bodies like the Anti-Corruption Commission, Public Service Commission and the Election Commission.

During these early days, not a day went by when a camera-happy adviser did not promise something new to the people.

Starting from a promise to 'wipe out corruption' to 'only letting clean candidates run', to installing rule of law,

good governance, and cleaning up public service organizations, to even things like introducing daylight savings time in Bangladesh, the caretaker government wanted to take care of everything.

Amidst all this, they forgot, however, to pay attention to the impending price inflation and did not take measure to replenish our grain reserves.

In Bangladesh, politics is this price of rice.

"Inflation up, government down," wrote one of my colleagues when he sounded off the warning bell in a write-up in May last year.

But the government was too busy trying to iron-fist through some of the political changes selectively.

In the process, it trampled through the institutions and the judiciary, gagged the media and became less and less transparent as time went by.

The ever-rising price of rice, coupled with the loss of the government's moral authority in making these sweeping changes, resulted in a complete loss of confidence of investors, a stale economy, double-digit inflation and enormous mismanagement of expectations.

By the beginning of its second year, under tremendous pressure from all quarters and amid rising unpopularity, the government was back-peddalling on a lot of these reform initiatives.

Three weeks away from the election, the government is now fighting to keep the last few

remaining electoral reform proposals.

## **Two years of the Caretaker government**

Judiciary:

As stressed previously, it wasn't the lack of will to change the status quo that undid most of these reforms. It was the undermining of their own reforms in order to meet an end goal (which was also not clear) that turned this government into paper reformers. The political culture of the past, which it so condemned, was continued.

Nowhere it was more observable than how the judiciary performed during this government rule.

One of the first commendable actions of the government was the separation of the judiciary, amid thunderous applause from the civil society. A High Court verdict, which was not implemented by the previous governments, was finally a reality.

This was a significant step in giving autonomy to the lower courts.

However, during the same time, various speedy tribunals were set up to conduct the cases of the political prisoners.

The courts did not let journalists come inside during the process, raising the question of transparency.

The prosecution had a success ratio of 100:0.

A lot of observers, who supported the government in its early days, questioned the lack of due process in trying the politicians.

Not surprisingly, they believe that the convictions are unlikely to survive in the higher judiciary.

Under the previous government, the judiciary was tainted by giving very partisan appointments to people with questionable competence.

However, this government continued a process where judicial verdicts went hand in hand with

the government policy.

When the government was tough on the politicians, the courts refused to grant them bail.

But once it went soft on them, they started to get bail in high numbers.

So much for judicial independence!

Media:

In terms of media freedom, matters were particularly bleak in the first year. The emergency rules and the constant harassment from the military intelligence made things tough.

The military intelligence wing, known as DGFI, was accused of giving strict guidelines on what could be said and what could not be said in the electronic media.

Phone calls were bugged.

Surveillance was placed.

The first 24-hour news channel, which gave detailed coverage to the mass student protest against the government, was shut down for technicalities.

Journalist Tasneem Khalil was taken in and was tortured amid threats to comply.

Amid the threat of application of the Emergency Power Rules (EPR), a lot of the leading media complied with self-censorship.

However, the most damaging thing was the planting of various "news items" in lot of the newspapers in order to do a trial by media for the many politicians.

Most of these newspaper owners are industrialists and business tycoons themselves and a lot of them were arrested under the EPR on corruption charges. So it wasn't very difficult to pressure them into submission to publish various news item of choice.

Some of the newspaper editors, who openly supported the government, complied as well, abdicating their duties with their readers.

The most troubling aspect that may haunt Bangladeshi media for long was highlighted in an *Economist* article late last year.

It said that some of the business owners arrested on corruption charges were winning their freedom in exchange of equity holding in their media house.

In Dhaka's media circle, people now whisper aloud about channels that are actually owned by the military.

There have also been accusations of authorities forcing publishers to fire their outspoken editors.

In at least one case, it was successful and in another case, the journalists at *New Age* put up an unusual front page message stating that they had full confidence on their editor Nurul Kabir, who has been one of the strongest voices of dissent against this government.

So media walked on a very tight rope and under a tight leash.

### **Freedom of assembly - depends on who is asking**

In terms of applying the severe restriction prescribed by EPR , the government was selective.

Time to time over the two year period, various religious extremist groups would come out with protests that often would turn quite violent.

They were able to do so without any interference from the government in spite of the state of emergency that banned the freedom to assemble.

The case of cartoonist Arifur Rahman was another example where an issue was made about a cartoon.

There were weekly protests demanding shutting down the number one newspaper *Prothom Alo* even after the editor apologised for the incident.

The extremists continued to systematically target various mediums of cultural expressions, terming them anti-Islam.

The government also obliged accordingly.

The last two years saw three such cases, where the government caved in to their unrealistic demands.

The cartoonist controversy, the National Woman policy issue, and very recently, the Lalon controversy are three such examples.

This is where a relatively small group of religious zealots claimed that art expression and/or certain policies favouring women went against Islam and caused public disturbances.

Instead of taking public action, the government obliged by swiftly agreeing to their demands.

The recent case of the Lalon statue is one that signals what to expect in the coming days.

Lalon, who is a revered Bangladeshi spiritual and artistic figure, was openly challenged by the religious right when his statue was targeted for removal by a violent crowd.

The government quickly obliged by removing the statue that it commissioned only very recently.

A few days later, another statue in Dhaka was targeted the same way.

With every passing day, this group is openly challenging the established cultural heritage.

The passive attitude towards these non-state actors is slowly but surely reducing the free space for cultural expression.

## **Religious Minority**

The condition for religious minorities is that of a mixed one under the caretaker government. The government is typically accused of what it hasn't done for them rather than what it has.

While there were no cases of state-sponsored flagrant violations of the rights of religious minorities, the albatross of the Vested Property Act remained with this government seven years after it was repealed in the Parliament.

The Vested Property Act is a black law in Bangladesh that gives legal cover for forcibly grabbing land from religious and ethnic minorities.

Seven years after the repeal, the enactment of the law has still not taken place, causing properties illegally declared as "vested property" to not be returned to their rightful owners.

The extent of such dispossession has been underscored in a new study by Professor Abul Barakat, claiming that some 1.2 million Hindu families out of a total population of 2.7 million Hindu families countrywide has been affected directly by this law and that from 2001-2007, about 200,000 Hindu families had lost 1,22,000

*bighas*

of land in this way. The majority of those who had benefitted from the abuse of this law included persons with close connections to the government of the time, and to political parties.

As Naeem Mohaiemen points out in his upcoming research report for Ain O Shalish Kendro, laws like these go to the heart of the debate on the status and future of the Hindu community in Bangladesh.

Ever since Independence, there has been a steady decline in the Hindu population of Bangladesh.

The big question is whether the State wants to continue to be a passive partner in causing such a wide-scale migration.

## **Ethnic Minority**

Serious questions were raised about disenfranchising the ethnic minorities in the upcoming election. The Chittagong Hill Tracts (CHT) continue to remain a trouble spot for the entire two year period. The various good initiatives by the government were often marred by bad news.

On the positive side, the government allowed for the first time for the CHT to be brought under the mobile phone network.

This would undoubtedly increase the quality of life for people living there and would establish their right to information.

The CHT advisory commission met for the first time in seven years and Raja Debashish Roy, an ethnic leader, was appointed in charge of the Ministry of CHT Affairs.

However, 10 years after signing the peace treaty that caused the *Shantibahini* to drop its armed insurgency, the treaty is yet to be implemented.

In the CHT, the anniversary was marked by a continuing crackdown on political dissidents, not only members of indigenous political parties (PCJSS and UPDF), but also civil society representatives and NGO workers. The year saw a continuation of the long-term policy of ethnic



displacement in the CHT (bringing Bengali settlers from elsewhere and displacing indigenous Jumma people), a trend that accelerated during the five years of BNP-Jamaat government.

The village of Sajek was burnt down into ashes causing many ethnic members in the community to lose their shelter.

A noted community leader and activist Rang Lai Mro, who is serving a jail sentence imposed after an unfair trial under the Emergency rule, was being refused medical treatment for a serious heart condition. He is the head of a community of indigenous Mro people in the CHT and is held in Chittagong District Jail. Amnesty International issued an international alert about his risk of having a heart attack any time because of this lack of treatment.

On the electoral side, the electoral reform laws that made it mandatory for all participating parties to register caused the discarding of the regional parties. The regional indigenous parties from CHT were denied registration by the Election Commission, citing failure to have representation on a wider geographical area of the country.

Similarly, because the voter list was being drawn by the army, a lot of people in the community who had troubled relationships with the army in the local area were reported to have been reluctant to register and put their names in the database.

The most flagrant violation of human rights occurred when Mandi activist leader Cholesh Richel was tortured to death in army custody. I was part of an Amnesty International mission in Bangladesh in January this year with the Amnesty Secretary General, Irene Khan.

She pressed the army chief to disclose the result of the enquiry commission and demanded trial of the accused.

Although the army chief promised to look into it, up until now this hasn't happened.

Cholesh's family was given 30,000 taka and a sewing machine by the military.

Thus the culture of impunity continues under this administration.

## **RAB and extra judicial killing**

Extrajudicial killing started under the cover of crossfire killing by the Rapid Action Battalion (RAB) under the previous political government of BNP-Jamaat. One hoped that this government, which its advisor once famously termed "a government of the elites," would bring an end to this practice.

Although the number of killing went down initially, it nevertheless continued.

More alarmingly, for the first time this year political activists from a mainstream party were taken in and were shot dead in supposed "crossfire" by RAB.

Moshiul Alam Sentu, a central leader of the student front of BNP, was picked up in Dhaka and was shot in crossfire killing in July.

In one of the most brazen cases, a local leader of an underground Maoist party, Dr. Mamun, was arrested and

killed 4 hours after his eighty year called a press conference and pleaded for his life to the head of the caretaker government.

The culture of impunity thus continues in full force.

## **Climate Justice**

One of the issues of rights violation that is not discussed in the rights arena is the issue of climate justice. However, that time has come when Bangladeshis are starting to argue from a rights perspective the case of rising sea levels and the potential mass displacement of millions of people. The most fundamental rights to shelter, food, and work are being seriously affected because of global warming and more importantly, for no fault of our own.

The rest of the developed world needs to own up to it and pay towards an adaptation fund that has been set up for Bangladesh which will help Bangladeshis adapt to the changes of global warming.

This is not a charity request, but a just demand.

## **Institutional change**

The Caretaker government must be commended for setting up the National Human Rights Commission which was a demand of human rights activists for the past 15 years. However, very little discussion was done with the activists in creating it. As a result, the Commission's selection committee, which will decide on which cases to take for investigation, remains very bureaucrat-heavy, highlighting the chance for this to become a toothless commission without any real powers.

If it is done right and is resourced with competent people with an adherence to a commitment towards human rights, this Commission can bring in a change to the culture of impunity that has been so pervasive among the powerful elite.

## **Conclusion**

In summary, the number of institutional reforms that have been made over the last two years is minimal. The changes have been mostly on the personnel side. The various commission heads are people with impeccable records.

The fear is, however, that as soon as the term of these people expires, the appointment may go back to incompetent, corrupt and partisan favourites who may once again abuse the power to destroy the institutions.

For that not to occur there needs to be a political will and an agreement between both the parties that they will leave the judiciary and the major commissions outside partisan appointment.

One hopes that that level of discourse among the parties will start very soon. Similarly, half-hearted implementation of various initiatives in the last two years may soon prove very counterproductive as well. The haphazard way the anti-corruption trials have been conducted is resulting in the triumphant return of various abusers from the past.

They will now be even more emboldened and may rule with even more impunity.

However, the upcoming political government needs to build upon some of the good initiatives made by the current government.

Because they will have political support behind them, implementing them should become a lot easier.

Whichever party is coming to power, it should have no illusion that very tough days are gone.

Global recession, fights over resources, and inadequate infrastructure will soon become major issues for Bangladesh.

This may then cloud up a lot of these long term reform issues that are being discussed currently.

So while there is relatively stable time during the first hundred days, I would urge the new government to implement certain sweeping long-term reforms that will benefit the long-term human rights scenario in the country. These are as follows and are in no particular order:

1. Implementation of the Chittagong Hill Tracts Peace Treaty;
2. Implementation of Vested Property Act Return Act;
3. Making an unambiguous commitment towards banning extrajudicial killings;
4. Stop interfering with court decisions and court appointments;
5. Create an effective National Human Rights Commission;
6. Stop hidden interference with the media, and
7. Protect cultural icons and create a space for free expression.

The good news is that in the last two years, we have heard politicians from both sides of the aisle in Bangladesh talk about human rights (their human rights to be more specific) more than

at any other time. The hope is that since they have now seen what it's like to be on the other side of the coin, their attitude and ignorance towards human rights for their people will change.

The hope is that they will bring an end to this culture of impunity and bring back accountability.